

Honorable Kymberly K. Evanson

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

DEBRA S. O'NEAL,
Plaintiff,

v.

STATE FARM FIRE AND CASUALTY
COMPANY,
Defendant.

No. 2:23-cv-00232-KKE

**DECLARATION OF NOAH DAVIS IN
SUPPORT OF PLAINTIFF DEBRA
O'NEAL'S MOTION FOR ATTORNEY
FEES AND COSTS**

I, NOAH CHRISTIAN DAVIS, declare as follows:

1. I am an attorney licensed to practice law in the State of Washington and am the Managing Member of In Pacta PLLC located at 33530 1st Way S Suite 102, Federal Way, WA 98003. I have been practicing law since 2001.
2. Besides the State Courts of Washington, I am admitted to the U.S. Supreme Court, the 9th Circuit Court of Appeals, U.S. Tax Court and the W.D. of Washington.

I. EXPERT QUALIFICATIONS

3. Prior to my admittance to the Washington bar, I graduated the University of Arkansas School of Law with honors in 1998 with honors, clerked at the Arkansas Court of Appeals, and then completed a Masters of Law (in person) at Melbourne University in

Melbourne, Australia (where I also worked towards a second Masters at Monash University) –in international commercial law and arbitration.

4. After working as a securities compliance manager in Melbourne, I returned to the US in 2001 to begin my Washington State practice as a solo practitioner, before working as a partner in two firms (Davis McCormick and Compatore Davis) and then founding IN PACTA PLLC.
5. While initially a solo practice, IN PACTA PLLC grew to as many as seven lawyers over its first 12 years in operation, before I reversed course and gradually downsized back to a solo practice (where am I today). My CV is attached as Exhibit A to this declaration.
6. An active member of the WSBA (including serving on more than a dozen boards and as a Hearing Officer for the Washington State Bar Association), my legal practice has centered on litigation (including, most often: insurance coverage disputes (including bad faith and IFCA), personal injury, employment and business disputes in both state and federal court.
7. My practice has also varied to include advising a publicly traded mutual fund, a sports star and successfully defending a matter before the FAA.
8. As lead counsel at trial, I have successfully tried at least 9 cases, including jury trials in state and federal court.
9. I have also acted as appellate counsel, and have successful argued two cases to reversal – one in the Washington Supreme Court (*Oltman v. Holland America*, 163, Wn.2d 236 (2008): a spouse’s loss of consortium claim was not precluded by contract), and one in the Ninth Circuit Court of Appeals (*Oltman v. Holland America*, 538 F.3d 1271 (2008): equitable tolling of the statute of limitations), while also successfully defending cases on

1 appeal (in the Washington State Courts). And I am currently prosecuting an appeal in an
2 insurance coverage dispute in the Ninth Circuit.

3 10. In addition, I have acted as the sole arbiter in approximately 12 cases that have reached a
4 final decision, including one case involving a fee dispute between the client and
5 attorney.

6 11. Over my some twenty-three years of practice, I have submitted declarations in support
7 of my hourly rate being accepted by a court, and have defending against requests by
8 opposing counsel for an hourly rate to be accepted. And, I have also received fee
9 declarations from counsel in the cases I have arbitrated (in which I had to find an hourly
10 rate to be reasonable).

11 12. From those experiences, including the context of my two decades of work as an attorney
12 in Washinton, I am familiar with the spectrum of reasonable hourly rates in Washington
13 from State Court to Federal, and from hourly to contingency.

14 13. Although, I have never testified as an expert at trial, I believe I am qualified to opine on
15 the reasonableness of hurly rates charged in Washington, in this case.

16 II. ASSIGNMENT AND WORK PERFORMED

17 14. And, to that end, I have been retained by Dubs Herschlip of Dunlap Bennett & Ludwig
18 (“DBL”) to provide an opinion on the reasonableness of the hourly rates charged by
19 DBL attorneys Dubs Herschlip, Rafael Bultz, Alexander Rowan, Tracy Pearson, Austin
20 Hatcher, and Sara Kahan as well as his paralegals William Adan and Camdyn Joiner.

21 15. I performed several tasks in order to develop my opinion.

22 a. First, I communicated with Dubs Herschlip regarding the case (to familiarize
23 myself with the issuses);

b. 2nd, I reviewed Dubs Herschlip's Declaration in Support of Attorney Fees

c. I also reviewed recent fee requests among Plaintiff's lawyers via the Eagle listserv.

III. OPINIONS

16. My understanding is that Plaintiff seeks an award of attorney's fees based on Mr.

Herschlip's hourly rate of \$550 (with a 2023 hourly rate of \$500 and 2021/2022 hourly rate of \$350); Mr. Bultz's hourly rate of \$395 (with a 2023 hourly rate of \$295); Mr.

Rowan's hourly rate of \$395 (with a 2023 hourly rate of \$295); Ms. Pearson's hourly rate of \$495; Mr. Hatcher's hourly rate of \$250; and Ms. Kahan's hourly rate of \$295.

The overall average of DBL's hourly attorney fees were \$425.55.

17. Although my opinion on what the hourly rate of each attorney or paralegal will vary

depending on both the experience and substantive involvement, I state on a more

probable than not basis that for all of the attorneys and legal staff, that DBL's hourly

rates are well within the realm of reasonableness for the Seattle market for legal

representation of the type and quality provided.

18. Mr. Herschlip's 24 years' experience as an attorney, and his past trial experience

warrants a \$500/hr rate, especially as applied to work in federal court (which I find to be

a more demanding and exacting practice than in state court). For comparison, while I

have similar experience to Mr. Herschlip, I find myself to below market and am now

publishing a very similar rate (\$475/hr) for my Federal Court matters though that

amount increases to \$575/hr for contingency cases – whereas my State Court rate is now

published at \$375/hr).

19. As for the other attorneys, Mr. Bultz (four years of legal experience at a law firm prior

1 to law school including non-lawyer work), Mr. Rowan (three years of legal experience
2 as a judicial intern and legal services volunteer), a rate up to \$400/hr is very reasonable,
3 taking into account the Seattle-metro market, as well as the experience of each of these
4 individuals.

5 20. But for Ms. Pearson, in light of her over fifteen years of experience, including as a
6 prosecuting attorney, which reflects more trial experience than most civil litigators have
7 (including myself), a rate up to \$500 is well warranted and reasonable.

8 21. As for litigation staff, such as paralegals, I find a rate up to \$200/hr to be reasonable
9 with a rate of \$125/hr being undermarket.

10
11 I state the foregoing opinions on a more probable than not basis and I declare under
12 penalty of perjury under the laws of the State of Washington that the foregoing is true
13 and correct.

14 Signed at Tacoma, Washington, this 17th day of November 2024

15 

16 _____
Noah Christian Davis WSBA# 30939
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19 nd@inpacta.com

EXHIBIT A

NOAH DAVIS

BAR ADMISSIONS

United States Tax Court (2013)
United States Supreme Court (2010)
Ninth Circuit Court of Appeals (2009)
US District Court for the W.D. of Washington (2002)
Washington State Supreme Court (2001)

In Pacta PLLC
33530 1st Way South, #102
Federal Way WA 98003
(206) 734-3753 (dir)
nd@inpacta.com

EDUCATION University of Melbourne School of Law

Melbourne, Australia

Master of Laws (LL.M.) December 2000

Tracks: Int'l Commercial (Trade and Investment) Law,
Dispute Resolution

Activities

Guest Lecturer at Chulalongkorn University, Thailand,
LL.M. program (International Arbitration in the United States)
Guest Lecturer at the University of Melbourne, LL.M. program
(International Arbitration in the United States)
Guest Lecturer to Laos Commercial Arbitration Centre Delegation
(International Arbitration in the United States)

University of Arkansas School of Law

Fayetteville, Arkansas

Juris Doctor, (J.D.) May 1998, cum laude

G.P.A: 3.27 (4.0 scale) Rank: 19/111

Honors and Activities

Dean's List; Recipient of Max Ostner, Sr. Foundation Scholarship
Investigator/Prosecutor, Student Honor Council
Vice-President, Public Interest Law Foundation
President, Sierra Student Coalition – Chair Earth Day Festival
Environmental Concerns Committee (Fayetteville, AR, City Council)
Moot Court; Negotiations Competition; Trial Advocacy

University of Central Arkansas

Conway, Arkansas

Bachelor of Arts, Political Science, Psychology, 1995

UCA G.P.A: 3.6 (4.0 scale)

Honors and Activities

Dean's List; John Greenleaf Whittier Scholarship
NCAA Division II Football Scholarship; NCAA Division III Baseball
Journalist for UCA's Student Newspaper, *The Echo*
Model United Nations Conference Participant/Representative
Orthogonian Society, Social Fraternity

EXPERIENCE

IN PACTA PLLC

Federal Way, WA

Principal (February 2002 – Present). General Practice, including commercial law, ADR, contracts, business formation, corporate advisory/compliance, business disputes, general civil litigation, employment law, administrative law and personal injury.

ABA World Justice Project

Vienna, Austria

2x Participant (2007-2008) in the International Rule of Law/World Justice Project created by the American Bar Association and held both in Singapore and Venice and attended by lawyers and judges across the world including from the US, Pakistani and EU member nations' highest courts.

Davis & McCormick, PLLC

Seattle, Washington

Partner (May 2001 – January 2002). General Practice, including business law, commercial contracts, litigation and family law.

Washington State 2000 Trade & Friendship Mission to Cambodia

Phnom Penh, Cambodia

Participant (December 2000) in the State of Washington's Trade & Friendship Mission to Cambodia. Met with senior ranking government officials from Cambodia, such as the Minister of Trade, the Secretary General of the Centre for the Development of Cambodia (CDC), the Minister of Tourism, a Senator, a member of the People's Assembly and various Cambodian export companies as part of an organized state effort to develop and increase bilateral trade and encourage better state-to-state relations between Cambodia and the U.S. Established firm contacts with officials interested in assisting commercial trade ventures in Cambodia, thereby opening the door to exports, business licensing, direct investment, government infrastructure contracts and the practice of law within Cambodia.

Treasury Funds Management Limited

Melbourne, Australia

Compliance Manager (November 4, 1999 – January 31, 2001) Helped design a compliance system capable of meeting the strictures of the new Managed Investments Act (MIA). Managed compliance and administrative staff in order to ensure the continued good standing and best practice of Treasury Funds as a licensed Responsible Entity. Created a corporations law compliance system for companies listing on the Australian Stock Exchange. Negotiated contracts with third parties, liaised with the Australian Securities and Investments Commission, met with external legal counsel on issues of major legal import, and attended industry seminars on corporate compliance and good governance.

Arkansas Court of Appeals, Judge Terry Crabtree

Little Rock, Arkansas

Judicial Law Clerk (August 15, 1998–December 31, 1998) Researched statutory and common law as pertinent to issues presented on appeal. Drafted and finalized opinions to be recorded as law. Position utilized extensive reading, writing and editing skills.

Additional Experience:

Wal-Mart Corporate Headquarters,	(June 1998-July 1998)
Hon. Robert F. Fussell, U.S. Bankruptcy Judge	(Feb. 1998-May 1998)
Counselling Associates, Inc., Conway AR	(May 1995-Aug.1995)

**LEGAL &
COMMUNITY
Ass'ns & Activ**

Current Activities and Involvement:

Arbitrator, King County MAR
Washington Association of Justice
Washington State Bar Association (WSBA)
Boys U9/U10 Select Soccer Coach
V.P. Norpoint FC (Youth Soccer Club)
University of Arkansas Alumni Assoc.
Tacoma Pierce County Bar Association
Univ of Central Arkansas Alumni Ass'n.

Past Involvement:

Host-Radio Show: "Noah Your Rights"-KLAY 1180AM
Guest Lecturer at SU Law and UW Law
Guest Lecturer, University of Melbourne LLM
Guest Lecturer, Chulalongkorn University
WSBA Fee Arbitration Panel
WSBA WYLD CLE Committee
WSBA Law Offc Mgt Asst Program
WSBA Disciplinary Hearing Officer
Aid Cambodia, non-profit org. (Pres.)
Austin Foundation, (Legal Counsel)
Institute for Diversity Governing Council
WYLD Membership Com. Chair
WSBA WYLD President 05-06
WSBA Judicial Recommendation Com.
WSBA ADR Committee
ABA YLD Affiliate Assistance Vice-Chair
YMCA Youth & Legislature Board Mem.
Asian Counselling Centre Legal Clinic
WSBA Rules of Professional Conduct Com.
WSBA Adjunct Disciplinary Investigator
Federal Pro Bono Panel
ABA GP Solo Council Member
ABA GP Solo Chair of Corporate Sponsors Committee
ABA GP Solo Chair of National Solo Small Firm Conf.
King County Bar Courts and Judiciary
King County Bar Judicial Selection Com.
King County Bar Ass'n Jud. Conferencing
Ran for Port of Tacoma Commissioner (2017)
Federal Bar Association

SKILL &

Interest Areas Civil Litigation, Business Law, Administrative Law